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INDIAN VIEW OF THE LAWS ON MONEY LAUNDERING

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ABSTRACT

According to the definition of "money laundering," it involves a technique that conceals the true owners of illegally obtained funds. When criminals attempt to disguise the genuine source and ownership of their unlawful earnings, they use money laundering. This permits them to maintain control over the revenues and to provide a legitimate cover for their source of cash if they are successful in their endeavours. A single procedure of laundry can be broken down into three phases: the placement stage, layering stage and integration phase. In spite of India's tight foreign exchange restrictions, which make it tough for criminals to launder money, the country's expanding financial strength leaves it vulnerable. Bureau for International Narcotics and Law Enforcement Affairs In order to prevent money laundering, this law went into effect on July 1st, 2005. Since 2005, 2009, and most recently, 2011, the Act has been revised to make it more comprehensive. Many anti-money laundering methods exist in India, although they're not without flaws or issues.

KEYWORDS: Money laundering, Law, Criminal.

INTRODUCTION:

Crime is a necessary evil that must be eradicated. A crime is any act that is prohibited and penalised by the law. It is difficult to define a crime generally because the meaning of the term differs from country to country, and activities that may result in incarceration and punishment in one country may not have the same consequences in another. However, there are certain types of conduct that can be classified as illegal activities in today's world, whose definitions have been accepted by the international community, and which have a global presence regardless of their location, nature, or scale. White Collar Crimes is the term used to describe certain types of criminal actions. In terms of nature, traits, and types, the old definition of crime has undergone a huge transformation. Acts that harm a human being physically, such as murder, physical assault, and so on, were considered criminal acts in the past, but with technological advancements, the parameters for judging criminal activities have widened in scope, and it is no longer limited to traditional crimes like murder, theft, robbery, and physical assault. There are numerous distinctions between conventional and white collar crimes. The major motivation for a white collar crime is corruption, which is the root cause of all required depravity, whereas vengeance, passion, or hatred may be the motivation for a traditional crime. A traditional crime can be committed by anyone from any social class; categorization is difficult in the case of a traditional crime, whereas white collar crime is only committed by persons from the upper and middle classes.

Let us consider how money laundering, a key component of white collar crime, occurs in society as a whole in light of this thesis. What does a person do with a large sum of money that he has obtained illegally by various means such as drug smuggling, immoral trafficking, and so on? Does he simply keep the money in his home or does he go to a bank and declare the proceeds of crime he has accumulated? If he chooses the second option, he will almost certainly be caught by the investigating authorities because every country's banking institutions have a certain threshold limit for depositing money in the concerned financial institutions, and if that threshold limit exceeds the given amount, suspicion grows among the officers who have been hired to keep a close eye on things. As a result, the second option can be ruled out, and it is apparent that the individual would not dare to go to the bank and declare his assets or money gained through such means. So, if the first alternative is considered a realistic method of money laundering, the worry of income tax investigators invading that person's home and discovering the true source would be a cakewalk for these seasoned specialists. So, what options does this guy with a large quantity of unlawful proceeds have? Let's take a closer look at what money laundering is.

In its most basic form, money laundering refers to the concealment of the source of funds received through criminal means such as gambling, corruption, and drug trafficking. "After foreign currency and the oil industry, money laundering is the world's third largest enterprise," says Jeffrey Robinson in "The Laundrymen." The origins of such a threat may be traced all the way back to the 13th century, when waterways were utilised to transport money across international trade routes. With the passing of time and the advancement of technology, money laundering has begun to emerge as a viable sector in society. If the process of money laundering is successful, criminal activity goes undiscovered. Alphonse"Al" Capone, a well-known mob gangster, was said to generate an estimated $100 million in illegally obtained revenues per year, which he laundered through a series of commercial transactions. The Prevention of Money Laundering Act (PMLA) of 2002 defines money laundering as "knowingly receiving, possessing, concealing, disguising, transpiring, converting, disposing off within the territories of India, removing from or bringing into the country property, that is proceeds of crime (or) derived from proceeds of crime(or) knowingly receiving, possessing, concealing, disguising, transpiring, converting, disposing off within the territories of India, removing from or bringing into the country.

PHASES OF MONEY LAUNDERING PROCESS:

Money laundering is not a one-size-fits-all process. Smuggling away cash currencies, hawala transfers and using shell businesses are some methods that are widely used in the money laundering process.

A single procedure of laundry can be broken down into three phases: the placement stage, layering stage and integration phase.

1. **Placement:** During this phase, attempts are made to place the cash obtained by criminal activity into the financial system. Since huge sums of cash are readily visible, and banks are compelled to record high-value transactions, this is the most risky stage of the laundering process. Massive cash quantities are either broken down into smaller sums that be deposited directly into a bank account or purchased as a series of monetary instruments (cheques and money orders), which can be gathered and deposited into accounts at another location.

2. **Layering:** Second, monies are rotated, re-mixed, and transferred and re-transferred repeatedly in the financial system. Several layers are built up, one on top of the other, to hide the source of the funds. Deposits and withdrawals to continually vary the money in the account, changing the money's currency, or purchasing expensive assets such as mansions, boats, diamonds and vehicles can all be part of layering. While this may seem like the simplest part of a money-laundering strategy, there are a number of steps involved. As a result, the transfers appear to be valid in some cases.

3. **Integration:** Money laundering's last phase focuses on reintegration into the legitimate financial system after it has been successfully laundered. Different financial instruments are used for this, such as bonds and securities as well as credit notes, bills of lading, etc. He or she may decide to invest in real estate, luxury assets, or commercial initiatives at this point in the process of money laundering. He can now utilise it without getting caught. In the integration step, it's exceedingly difficult to catch a money launderer if there's no paperwork from the preceding stages.

LEGAL PROVISIONS TO CONTROL MONEY LAUNDERING IN INDIA:

In spite of India's tight foreign exchange restrictions, which make it tough for criminals to launder money, the country's expanding financial strength leaves it vulnerable. International Narcotics Control Strategy Report by Bureau for International Narcotics and Law Enforcement Affairs emphasises India's Vulnerability to money-laundering activities in following words: A few of the most common sources of illicit income in India are narcotic trafficking, the unlawful trade in endangered species of animals, the illegal gem trade (especially diamonds), smuggling, human trafficking, corruption, and income tax fraud. Given its proximity to the heroin-producing countries of Golden Triangle and Golden Cres-

cent, India has historically been a drug transit country."

PREVENTION OF MONEY LAUNDERING ACT, 2002:
In order to prevent money laundering, this law went into effect on July 1st, 2005. Since 2005, 2009, and most recently, 2011, the Act has been revised to make it more comprehensive.

A 2011 amendment to the law (PMLA) brought it in line with the FATF guidelines. That same year, a law was passed to broaden the definition of money laundering to include deceit and deception, as well as acquiring and using criminal gains.

THE INDIAN POSITION ON MONEY LAUNDERING:
India has enacted a variety of measures to counter narcotics trafficking and money laundering. In recent years, India has become a significant money laundering concern for law enforcement officials.

THE HEROIN PROBLEM:
Due to the high demand for heroin, India has become an important transit site for drug trafficking. A key transit hub for heroin, India is sandwiched between two of the world's greatest opium poppy-producing regions, the Golden Crescent to the west and the Golden Triangle to the east. Dozens of kilogrammes of pure grade heroin are shipped out of India every day from sites such as New Delhi and Bombay, bound for destinations in Western Europe and the United States.

Heroin trafficking from India to countries such as Iran and Turkey has been going on since at least the late 1970s or early 1980s. As a result of the region's stringent border patrols, heroin was preferentially routed through India rather than through Western Europe. These countries' border activity was closely observed due to hostilities that were raging.

The countries of the Golden Crescent have begun to find alternative routes for their heroin, instead of sending it through India, which has become increasingly difficult. There hasn't been a significant drop in heroin entering India from the southwest, however. India's eastward neighbours raised their heroin imports by a staggering amount while the Golden Crescent countries' heroin traffic declined. There is a Golden Triangle in India's east. Globally, opium production is dominated by the Golden Triangle countries.

It was once common for Thailand to export heroin made in Southeast Asia to the western world. Thailand's borders were formerly awash in heroin, especially from Myanmar. Despite this, the amount of heroin entering Thailand has decreased due to increased border patrols. Southeast Asian drug lords have turned to India as an alternative to Thailand for their large-scale narcotics activities. Opium is freely transported in Myanmar to the Indian border with the help of Rangoon's military dictatorship, the State Law and Order Restoration Council ("SLORC"). Heroin is then shipped around the world once it reaches India.

A large amount of heroin is still being produced in the United States. An increasing number of Indians have easy access to heroin because of the country's rising position in global trade. In a country with a long history of extreme poverty, heroin is so inexpensive that even the poorest income levels can afford it. Now, the Indian subcontinent is ravaged by a drug epidemic.

PRE 2002 INITIATIVES TO COMBAT MONEY LAUNDERING:
India's banks were reluctant to abandon their strict bank secrecy laws, which made it easier for individuals to launder money there. In India, the problem of money laundering is exacerbated by Hawala, a centuries-old system of illegal banking. The Money Laundering Prevention Bill ("MLPB") was drafted by the Indian government in an effort to combat money laundering. Other countries have agreed to cooperate in money laundering investigations with the United States.

PREVENTION OF MONEY LAUNDERING ACT, 2002:
The Prevention of Money Laundering Act was enacted in 2002 as a result of the passage of the bill. This law went into effect on July 1, 2005. There are many offences that this law prohibits the laundering of funds from. If you have any knowledge or suspicion that someone is involved in laundering proceeds of crime and fail to report it, you will be held criminally liable under the law. Money-laundering is committed by anyone who directly or indirectly attempts to participate in, knowingly assists, or knowingly is a party or is genuinely involved in any process or activity related with the proceeds of crime and projects it as untainted property. For the offence of Money Laundering, as outlined in section 3, section 4 stipulates the punishment. Three to ten years in prison is the maximum sentence. A fine of up to 5 lakh rupees can also be imposed on the offender.

CONCLUSIONS:
Drug traffickers, embezzlers, corrupt politicians and public officials, mobsters, terrorists, and con artists are among the most prevalent criminals involved in money laundering. Extremist movements, illegal arms sales and financial crimes create large sums of money, and criminal groups must find a means to make use of these funds without raising suspicions about their illicit origins.

In other words, it's not simply a local crime, it's a really serious offence. Even if there are no borders, law enforcement organisations are nevertheless limited to the rules and processes of individual states because money laundering is a global phenomenon.

Many anti-money laundering methods exist in India, although they're not without flaws or problems: Technology is growing at a faster rate than law enforcement agencies can keep up; the public is not aware of proper anti-money laundering measures; KYC norms aren't working because banks are being forced to lower their guards; and the black market in India is still prevalent, despite its reduction. These agencies are also not coordinated.

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